

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality (DEQ), and Earth Works Solutions, a Wyoming corporation authorized to do business in Wyoming, enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in **Notice of Violation Docket No. 4670-10, dated April 13, 2010**. The Notice of Violation alleges that Earth Works Solutions is in violation of the Wyoming Environmental Quality Act (Act) and applicable Solid and Hazardous Waste Rules & Regulations.

W.S. 35-11-901 (a)(ii) authorizes the DEQ to negotiate a stipulated settlement, including payment of a penalty, compliance schedules, or other enforcement conditions, in lieu of litigation. To that end, Earth Works Solutions and the DEQ hereby stipulate and agree as follows.

1. The DEQ is responsible for enforcing the Wyoming Environmental Quality Act and Rules and Regulations promulgated thereunder.
2. Earth Works Solutions operates a construction contracting company in Gillette, WY.
3. DEQ alleges that Earth Works Solutions failed to have the required solid waste permit for used oil storage since the total used oil storage capacity was greater than 2000 gallons. [SWRR, Chapter 1, Sections 1(f)(i)]
4. DEQ alleges that Earth Works Solutions failed to properly label or clearly mark with the words "Used Oil", 25 unlabeled 55-gallon drums, a 250 gallon used oil tote, and a 50 gallon used oil drain container. [HWRR, Chapter 12, Section 11(c)(iii)]
5. DEQ alleges that Earth Works Solutions failed to have the required Spill Prevention Control & Countermeasures (SPCC) plan onsite since the total used oil storage capacity was greater than 1,320 gallons. [HWRR, Chapter 12, Section 11(c)]



6. Since receiving the Notice of Violation, Docket No. 4670-10, on or about April 26, 2010, Earth Works Solutions has corrected the violation listed under #4.
7. To address #5, within sixty (60) days from the date of this Settlement Agreement, Earth Work Solutions shall submit a current and up-to-date SPCC plan copy that is properly certified by a Professional Engineer (P.E.).
8. Within one hundred twenty (120) days from the date of this Settlement Agreement, Earth Work Solutions shall have submitted the required solid waste permit application to obtain the required solid waste permit to address #3.
9. Earth Works Solutions agrees that in lieu of paying up to seven hundred seventy dollars (\$770) as a penalty, Earth Works Solutions shall within sixty (60) days from the effective date of this Settlement Agreement, donate \$770.00 to the City of Gillette to implement a Supplemental Environmental Project (SEP) for recycling electronics (e-waste) during the Gillette recycling day on September 25, 2010.
10. Upon completion of its obligation under paragraph 9, Earth Works Solutions shall promptly notify the DEQ/SHWD in writing to confirm that the payment to the City of Gillette has been made (i.e., include copy of check, cash receipt). This notification in writing shall include written documentation showing that Earth Works Solutions requested and the City of Gillette used such funding for recycling electronics (e-waste) during the Gillette recycling day.
11. Earth Works Solutions full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all present and future claims by DEQ against Earth Works Solutions based on the acts or omissions alleged to be violations in Notice of Violation No. 4670-10. Contingent on Earth Works Solutions compliance with the terms of this Settlement Agreement, DEQ will refrain from taking further enforcement action against Earth Works Solutions for the violations specifically alleged in Notice of Violation No. 4670-10.
12. Earth Works Solutions waives any statute of limitations which may apply to an enforcement action by the DEQ/SHWD involving the specific matters described in Notice of Violation No. 4670-10 in the event that Earth Works Solutions fails to fulfill its obligations under this Settlement Agreement.

13. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
14. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
15. This Settlement Agreement is binding upon Earth Works Solutions, its successors and assigns, and upon the DEQ.
16. This Settlement Agreement may only be amended in writing, signed by both parties.
17. The State of Wyoming and the Department of Environmental Quality, do not waive sovereign immunity by entering into this Settlement Agreement, and specifically retain all immunity and all defenses to them as sovereigns pursuant to Wyo. Stat. Ann. § 1-39-104(a) and all other state law.
18. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.
19. This agreement is not binding until fully executed by all parties to this Agreement.
20. Earth Works Solutions, by entering this Agreement, does not concede or admit to any liability or fault.

SETTLEMENT AGREEMENT EARTH WORK SOLUTIONS NOV 4670-10

FOR: Earth Works Solutions

Signed: Tyler Miller

Date: 9/24/2010

Typed: Tyler Miller

Title: President

FOR: THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

John V. Bova, Director
Department of Environmental Quality (DEQ)

Date: 9/2/10

C. A. D., Administrator
DEQ/Solid & Hazardous Waste Division

Date: 9/2/10